IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8547 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PUSHPABEN CHAKUBHAI VAGHRI (SOLANKI)

Versus

STATE OF GUJARAT

Appearance:

MR YATIN SONI for Petitioner

Ms.Harsha Devani, learned A.G.P. for respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 13/10/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dated 7.6.2000 passed by the Police Commissioner, Rajkot City detaining the petitioner under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985. The petitioner is detained at Central Jail, Vadodara since 7.6.2000.

No reply to the petition has been filed.

The petitioner aged 18 years is one of the three sisters, who were detained and it is given out by the learned counsel for the petitioner that two other sisters, whose cases are identical to the present petitioner, namely, Chandrikaben and Niruben, have already been released by this court.

The grounds of detention enclosed with the detention order show that 4 criminal cases with regard to chain snatching and pickpocketing etc. have been registered against the petitioner during the period between 13.5.2000 and 3.6.2000. The detaining authority has referred to the anti social activities of the petitioner and has found that it was necessary to detain her in order to prevent her from continuing with her anti social activities.

On the basis of the criminal cases, as have been registered against the petitioner and the anti social activities, about which reference has been made in the detention order, it cannot be said that there is a case of breach of public order by the petitioner and at the most it can be said to be a case of breach of law and order.

Besides this, the detaining authority has made reference to the incidents dated 5.6.2000 and 12.3.2000 about which witnesses have deposed against the petitioner's anti social activities. It is not disputed that the statements about these two incidents were recorded on 5.6.2000 and 6.6.2000 and the same were verified on 6.6.2000 and on the next day i.e. on 7.6.2000 the detention order was passed. Learned counsel for the petitioner has placed reliance on an unreported decision dated 6.10.2000 in Special Civil Application No.8546/2000 wherein the earlier decision of this court rendered in the case of Kalidas Chandubhai Kahar v. State of Gujarat, reported in 1993(2) GLR 1659 was considered wherein it was held that the detaining authority's satisfaction stands vitiated and that it is a case of wrong exercise of power under S.9(2) of the Act. In this view of the matter, it is found that in the facts of this case also, wrong exercise of power under S.9(2) of the Act is clear.

For the reasons, as aforesaid, the impugned detention order dated 7.6.2000 passed by the Police

Commissioner, Rajkot City cannot be sustained in the eye of law and the same is hereby quashed and set aside. The respondents are directed to release the petitioner Pushpaben Chakubhai Vaghri (Solanki) forthwith from the Central Jail, Vadodara where she is detained since 7.6.2000, in case she is not required to be detained in any other matter. This Special Civil Application is allowed. Rule is made absolute.

(M.R.Calla,J)